IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 4339 of 1998

Between:

1. Chakali Srinivasulu, S/o. Eeranna,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
2. Chakali Nalla Reddy, S/o. Late Potappa,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
3. Chakali Govindappa, S/o. Bojarappa,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
4. Chakali Venkatesulu, S/o. Hussaini,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
5. Chakali Pedda Nallanna, S/o. Late C.Ayyanna,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
6 Boya Chinna Ranganna, S/o. Budda Reddy,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
7 Boya Thimmakka, W/o. Narasanna,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
8 Siva Reddy, S/o. K.Ramaiah,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
9 Boya Pakkireddy gari Nallanna, S/o. Boya Sunki Reddy,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
10 Boya Rami Reddy, S/o. Hanumappa,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
11 Komorthi Hampamma, W/o. Komarthi Adeppa,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.
12 Boya Edurinti Nallanna, S/o. Boya Somanna,
   R/o. Gudekal Village, Yemmiganur Mandal, Kurnool.

..... PETITIONERS

AND

1 Government of Andhra Pradesh, Rep. by its Secretary
   Revenue Department Secretariat, Hyderabad.
2 District Collector, Kurnool District.
3 Revenue Divisional Officer, Adoni, Kurnool District.

4 Mandal Revenue Officer,Yemmiganur, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Notification issued u/s. 4(1) of the Land Acquisition Act by the 2nd respondent vide his proceedings No. 3328/97, dated 08/09/1997 published in A.P., Hyderabad Edition dated 28/09/1997, proposing to acquire the lands of the petitioners i.e.,:-. 1st petitioner 0-80 cents in Sy.No.309 A.; 2nd petitioner 0-26 cents in Sy.No.333A; 3rd petitioner 0-69 cents 335 B; 4th petitioner 0-95 cents in Sy.No.308 D; 5th petitioner 0-47 cents 335 A/3 0-45 cents 335 C; 6th petitioner 0-25 cents 330 D; 7th petitioner 0-33 cents 334; 8th petitioner 0-50 cents 330 D; 9th petitioner 0-50 cents 330 D; 10th petitioner 0-25 cents 334; 11th petitioner 0-50 cents 330 D and 12th petitioner 0-32 cents 307 A/2, situated at Gudekal village of Yemmiganur Mandal, Kurnool District, pending disposal of the writ petition and pass such other order or orders.

Counsel for the Petitioners: MR.P.SRINIVASULU

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following:

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THE HONOURABLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.4339 of 1998

ORDER:

This writ petition is filed challenging the notification dated 8.9.1997 under Section 4 (1) of the Land Acquisition Act issued by the 2nd respondent proposing to acquire the lands of the petitioners.

It is submitted that the petitioners are small farmers having small extent of lands and are eking out their livelihood by doing agriculture and their grievance is that although other lands belonging to the Government are available, intentionally

the 2nd respondent issued the impugned notification proposing to acquire the lands of the petitioners by invoking emergency clause under Section 17 (4) of the Land Acquisition Act declaring that the land is needed for public purpose i.e., for the purpose of construction of summer storage tank and as such the enquiry under Section 5-A of the Land Acquisition Act was deliberately dispensed with a view to avoid valid objections from the petitioners.

While admitting this writ petition, this Court, on 18.2.1998, granted interim stay of dispossession of the petitioners from the lands in question. However, this Court directed the respondents to continue the other proceedings. Although the interim orders were passed in 1998, but the Government did not complete the other proceedings as contemplated under the Act, which is evident from the averments of the counter-affidavit and also from the narration of events by the learned Government Pleader for Land Acquisition. In this view of the matter, I am of the view that there is no urgency to dispense with the enquiry under Section 5-A of the Act invoking emergency Clause under Section 17 (4) of the Act.

In the aforementioned circumstances, the emergency clause under Section 17 (4) of the Act invoked by the 2nd respondent is set aside and the respondents are directed to hold an enquiry under Section 5-A of the Act and after receiving the objections from the petitioners, they may proceed with the further proceedings, if they so desire and pass appropriate orders in accordance with law.

The writ petition is accordingly allowed. No costs.

8-12-2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the Eighth day of December Two Thousand and Four.

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To

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1 The Secretary, Revenue Department, Secretariat, Hyderabad.
2 The District Collector, Kurnool District.
3 The Revenue Divisional Officer, Adoni, Kurnool (D).
4 The Mandal Revenue Officer,
Yemmiganur, Kurnool (District).

5 Two C.Cs to the GP for Revenue,

High Court of AP Buildings,

High Court of AP, Hyderabad (O.U.T.)

6 Two C.D copies.

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THE HONOURABLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.4339 of 1998

8-12-2004